



February 25, 2005

## HOUSE BILL No. 1037

DIGEST OF HB 1037 (Updated February 23, 2005 5:07 pm - DI 69)

**Citations Affected:** IC 25-26; IC 35-45; noncode.

**Synopsis:** Pharmacy security. Allows a pharmacist to refuse to honor a prescription if honoring the prescription would endanger the safety of a person employed by the pharmacy. Requires a pharmacist to notify a physician who issued a prescription if the pharmacist refuses to honor the prescription because honoring the prescription would: (1) be against the best interest of the patient; or (2) be contrary to the health and safety of the patient. Allows the board of pharmacy to refuse to renew, suspend, or revoke a pharmacy permit if the permittee fails to implement security measures designated by the board. Makes intimidation a Class D felony instead of a Class A misdemeanor if the person to whom the threat is communicated is an employee of a pharmacy.

**Effective:** July 1, 2005.

Neese

January 4, 2005, read first time and referred to Committee on Courts and Criminal Code.  
February 24, 2005, amended, reported — Do Pass.

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HB 1037—LS 6083/DI 106+



February 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1037

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 25-26-13-16 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A pharmacist  
3 shall exercise ~~his~~ **the pharmacist's** professional judgment in the best  
4 interest of the patient's health when engaging in the practice of  
5 pharmacy.

6 (b) A pharmacist has a duty to honor all prescriptions from a  
7 practitioner or from a physician, podiatrist, dentist, or veterinarian  
8 licensed under the laws of another state. Before honoring a  
9 prescription, the pharmacist shall take reasonable steps to determine  
10 whether the prescription has been issued in compliance with the laws  
11 of the state where it originated. The pharmacist is immune from  
12 criminal prosecution or civil liability if ~~he~~, **the pharmacist**, in good  
13 faith, refuses to honor a prescription because, in ~~his~~ **the pharmacist's**  
14 professional judgment, the honoring of the prescription would:

- 15 (1) be contrary to law;  
16 (2) be against the best interest of the patient;  
17 (3) aid or abet an addiction or habit; ~~or~~

HB 1037—LS 6083/DI 106+



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- (4) be contrary to the health and safety of the patient; or  
 (5) endanger the safety of a person employed by the pharmacy  
 or a pharmacist intern or pharmacist extern.

If a pharmacist refuses to honor a prescription under subdivision  
 (2) or (4), the pharmacist shall notify the physician who issued the  
 prescription not more than twenty-four (24) hours after the  
 prescription is presented to the pharmacy.

(c) A pharmacist:

- (1) may refuse to honor a prescription; and  
 (2) is immune from criminal prosecution and civil liability for  
 refusing to honor the prescription;

if the pharmacist believes in good faith that the person presenting  
 the prescription or the person for whose benefit the prescription is  
 presented is a person who has been convicted of intimidation (as  
 described in IC 35-45-2-1(b)(1)(B)(vi)).

SECTION 2. IC 25-26-13-18.5 IS ADDED TO THE INDIANA  
 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2005]: **Sec. 18.5. The board may, after a  
 hearing:**

- (1) refuse to issue a renewal of;  
 (2) suspend; or  
 (3) revoke;

a pharmacy permit if a permittee fails to implement security  
 measures within the time and in the manner designated by the  
 board.

SECTION 3. IC 35-45-2-1 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1. (a)** A person who  
 communicates a threat to another person, with the intent:

- (1) that the other person engage in conduct against the other  
 person's will;  
 (2) that the other person be placed in fear of retaliation for a prior  
 lawful act; or  
 (3) of causing:

- (A) a dwelling, a building, or another structure; or  
 (B) a vehicle;  
 to be evacuated;

commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

- (1) Class D felony if:  
 (A) the threat is to commit a forcible felony;  
 (B) the person to whom the threat is communicated:  
 (i) is a law enforcement officer;

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- (ii) is a judge or bailiff of any court;
- (iii) is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;
- (iv) is an employee of a school corporation; ~~or~~
- (v) is a community policing volunteer; **or**
- (vi) is an employee of a pharmacy (as defined in IC 25-26-13-2), a patron of a pharmacy, or a pharmacist intern or pharmacist extern;**

(C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or

(D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and

(2) Class C felony if, while committing it, the person draws or uses a deadly weapon.

(c) "Threat" means an expression, by words or action, of an intention to:

- (1) unlawfully injure the person threatened or another person, or damage property;
- (2) unlawfully subject a person to physical confinement or restraint;
- (3) commit a crime;
- (4) unlawfully withhold official action, or cause such withholding;
- (5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;
- (6) expose the person threatened to hatred, contempt, disgrace, or ridicule;
- (7) falsely harm the credit or business reputation of the person threatened; or
- (8) cause the evacuation of a dwelling, a building, another structure, or a vehicle.

SECTION 4. [EFFECTIVE JULY 1, 2005] **IC 35-45-2-1, as amended by this act, applies only to offenses committed after June 30, 2005.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1037, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 7.

Page 8, delete lines 1 through 30, begin a new paragraph and insert:

"SECTION 1. IC 25-26-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A pharmacist shall exercise ~~his~~ **the pharmacist's** professional judgment in the best interest of the patient's health when engaging in the practice of pharmacy.

(b) A pharmacist has a duty to honor all prescriptions from a practitioner or from a physician, podiatrist, dentist, or veterinarian licensed under the laws of another state. Before honoring a prescription, the pharmacist shall take reasonable steps to determine whether the prescription has been issued in compliance with the laws of the state where it originated. The pharmacist is immune from criminal prosecution or civil liability if ~~he~~, **the pharmacist**, in good faith, refuses to honor a prescription because, in ~~his~~ **the pharmacist's** professional judgment, the honoring of the prescription would:

- (1) be contrary to law;
- (2) be against the best interest of the patient;
- (3) aid or abet an addiction or habit; ~~or~~
- (4) be contrary to the health and safety of the patient; **or**
- (5) endanger the safety of a person employed by the pharmacy or a pharmacist intern or pharmacist extern.**

**If a pharmacist refuses to honor a prescription under subdivision (2) or (4), the pharmacist shall notify the physician who issued the prescription not more than twenty-four (24) hours after the prescription is presented to the pharmacy.**

**(c) A pharmacist:**

- (1) may refuse to honor a prescription; and**
- (2) is immune from criminal prosecution and civil liability for refusing to honor the prescription;**

**if the pharmacist believes in good faith that the person presenting the prescription or the person for whose benefit the prescription is presented is a person who has been convicted of intimidation (as described in IC 35-45-2-1(b)(1)(B)(vi))."**

Page 8, line 33, delete "may:" and insert "**may, after a hearing:**".

Page 8, delete lines 40 through 42.

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Page 9, delete lines 1 through 22.

Page 10, line 31, delete "IC 35-42-5-1 and".

Page 10, line 32, delete "both".

Page 10, line 32, delete "apply" and insert "**applies**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1037 as introduced.)

ULMER, Chair

Committee Vote: yeas 10, nays 0.

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